

**NATIONAL GEOSPATIAL-INTELLIGENCE
AGENCY (NGA)
DRUG-FREE WORKPLACE PLAN**



July 2008

NGA DRUG-FREE WORKPLACE PLAN
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I. INTRODUCTION

A. Background

On September 15, 1986, President Reagan signed Executive Order 12564, establishing the goal of a Drug-Free Federal Workplace. The Order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty. In a letter to all Executive Branch employees dated October 4, 1986, the President reiterated his goal of ensuring a safe and drug-free workplace for all Federal workers.

The Executive Order recognized that illegal drug use is seriously impairing a portion of the national work force, resulting in the loss of billions of dollars each year. As the largest employer in the Nation, the Federal Government has a compelling proprietary interest in establishing reasonable conditions of employment. Prohibiting employee drug use is one such condition. The National Geospatial-Intelligence Agency (NGA) is concerned with the well-being of its employees, the successful accomplishment of agency mission, and the need to maintain employee productivity. The intent of NGA's drug-free workplace policy is to offer Employee Assistance Program services to those who need it, while sending a clear message that any illegal drug use is incompatible with Federal service.

On July 11, 1987, Congress passed legislation affecting implementation of the Executive Order under Section 503 the Supplemental Appropriations Act of 1987, Public Law 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. section 7301 note (1987), (hereafter, the "Act"), in an attempt to establish uniformity among Federal agencies drug testing plans, reliable and accurate drug testing, employee access to drug testing records, confidentiality of drug test results, and centralized oversight of the Federal Government's drug testing program.

On February 6, 1989, the Defense Mapping Agency (DMA), which later became the National Imagery Mapping Agency (NIMA) and subsequently became National Geospatial-Intelligence Agency (NGA), issued DMA Instruction 1010.9, which implemented Executive Order 12564 and transmitted the DMA Drug-Free Workplace Plan, certified effective April 27, 1988. Since the standup of NGA on 24 November 2003, the certified DMA/NIMA plan has been followed. Changes to NGA Instruction 1010 in January 2005, however, led to a review and update of the plan, culminating in the publication of this revision. Important changes include:

1. Increased rate of random drug testing to 100% of the TDP pool each year.
2. Removal of the 'safe harbor' provision, under which discipline was not required of employees who voluntarily admitted to illegal drug use, for consistency with NGA's Table of Offenses and Penalties and security policies
3. Consistent with the NGA Table of Offenses and Penalties, removal from employment for all employees upon a verified first-time positive, substituted, or adulterated drug test

The purpose of the NGA Drug-Free Workplace Plan is to set forth objectives, policies, procedures, and implementation guidelines to achieve a drug-free Federal workplace, consistent with the Executive Order and Section 503 of the Act.

B. Statement of Policy

As a result of its intelligence and combat support responsibilities, as well as the sensitive nature of its work, NGA has a compelling obligation to eliminate illegal drug use from its workplace. NGA's mission is to provide timely, relevant, and accurate geospatial intelligence in support of national security.

All NGA civilian positions have been determined to be Testing Designated Positions (TDPs) subject to random drug testing because all positions require a minimum Top Secret with Sensitive Compartmentalized Information (TS-SCI) clearance and have access to truly sensitive information. The Department of Justice has advised that inclusion of such positions in an agency's random testing pool is considered to be preferred on the basis of law and public interest.

Under the NGA Table of Offenses and Penalties, the consequence of any verified positive, adulterated, substituted drug test, or refusal to test is removal from employment.

The mark of a successful drug-free workplace program depends on how well NGA can inform its employees of the hazards of drug use and on how much assistance it can provide drug users. Equally important is the assurance to employees that personal dignity and privacy will be respected in reaching NGA's goal of a drug-free workplace. Therefore, this Plan includes policies and procedures for: (1) employee assistance; (2) supervisory training; (3) employee education; and (4) identification of illegal drug use through drug testing on a carefully controlled and monitored basis.

C. Nature, Frequency, and Type of Drug Testing to be Instituted

Section 503 of the Act requires the NGA Plan to specify the nature, frequency, and type of drug testing to be instituted. The NGA Plan includes the following types of drug testing: (1) Applicant testing; (2) Random testing of those employees in sensitive positions that have been designated as testing designated positions; (3) Reasonable suspicion testing; (4) Injury, illness, unsafe, or unhealthful practice testing; (5) Voluntary testing; and (6) Testing as part of, or as a follow-up to, counseling or rehabilitation.

The Office of the Assistant Secretary of Defense for Health Affairs has mandated and funded drug testing for civilian employees in TDPs at a minimum average testing rate of 100 %. Accordingly, NGA will perform the same number of drug tests as it has TDP positions, within designated funding.

The frequency of testing for voluntary and follow-up testing, when applicable, is specified in Section XII(B) and Section XII(C), respectively.

D. Drugs for Which Individuals Are Tested

Section 503 of the Act requires NGA to specify the drugs for which individuals shall be tested. NGA will test for the following drugs: Marijuana, Cocaine, Opiates, Amphetamines, and Phencyclidine (PCP). If NGA desires to test for any other drug, advance written approval from the Secretary, Department of Health and Human Services, is required, along with conformance to any guidance from the Office of the Assistant Secretary of Defense for Health Affairs.

E. Scope

Upon certification by the Department of Health and Human Services in accordance with Section 503 of the Act, this Plan shall be effective immediately for NGA in its entirety.

F. References

1. Authorities and guidance are as follows:
 - a. Executive Order 12564;
 - b. Executive Order 10450;
 - c. Executive Order 13292;
 - d. Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. Sec. 7301 note (1987);
 - e. Mandatory Guidelines for Federal Workplace Drug Testing Programs which includes Scientific and Technical Requirements and Certification of Laboratories Engaged in Urine Drug Testing, 53 FR 11970 (1988) as amended (1994, 2004);
 - f. Civil Service Reform Act of 1978, Pub.L. 95-454;
 - g. Sections 523 and 527 of the Public Health Service Act and implementing regulations at 42 CFR Part 2, Confidentiality of Alcohol and Drug-Abuse Patient Treatment Records;
 - h. The Privacy Act of 1974 (5 U.S.C. Section 552a) prescribing requirements governing the maintenance of records by agencies pertaining to individuals and access to these records by the individual(s) to whom they pertain;
 - i. NI 5500.7R10, NGA Instruction for DOD Privacy Program Implementation, 7 Aug 07;
 - j. Federal Employees Substance Abuse Education and Treatment Act of 1986, Pub.L. 99-570;
 - k. NI 1010.2R9, NGA Instruction for Drug Abuse Testing, 8 Jan 07;
 - l. NI 1400.1R6, NGA Instruction for Employee Assistance Program, 7 Nov 07;
 - m. NI 5200.2R8. NGA Instruction for Personnel Security, 22 Aug 07;
 - n. 10 U.S.C. 986, as amended;

- o. NI 1455.1R5, NGA Instruction for Employee Adverse Action and Discipline, 28 Nov 07;
- p. Asst Secretary of Defense Memorandum, subject: Department Drug Demand Reduction Policy, 1 Oct 03;
- q. Deputy Secretary of Defense Memorandum, subject: Department of Defense Counternarcotics Policy, 31 Jul 02;
- r. DoD 1010.9, Change 1, subject: DoD Civilian Employee Drug Abuse Testing Program, 20 Jan 92.

II. DEFINITIONS

- A. **Applicant** means any individual tentatively selected for employment with NGA.
- B. **Employee Assistance Program (EAP)** means the NGA-based counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment
- C. **Employee Assistance Program Manager (EAPM)** means the individual responsible for ensuring the development, implementation and review of the agency EAP.
- D. **Employee Assistance Program Administrator (EAPA)** means the individual designated responsible for implementing and operating the EAP within the geographic area assigned by providing counseling, treatment, and education services to employees and supervisors regarding the EAP.
- E. **Employee Assistance Program Counselor (EAPC)** means the individual responsible for conducting the initial interview with an employee who is referred by the supervisor (or who volunteers) for counseling.
- F. **Medical Review Officer (MRO)** means the individual responsible for receiving laboratory results generated from the NGA Drug-Free Workplace Program, who is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.
- G. **Illegal Drugs** means a controlled substance included in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.
- H. **Management Official** means an employee required or authorized by NGA to formulate, determine, or influence the policies of NGA.
- I. **Random Testing** means a system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs and may either be:
 - 1. Uniform-unannounced testing of employees occupying testing designated positions, or
 - 2. A statistically random sampling of such employees based on a neutral criterion, such as social security numbers.
- J. **Employees in Sensitive Positions** means:
 - 1. Employees in positions designated by the Director, NGA as special sensitive, critical sensitive, or noncritical-sensitive, or employees in positions designated

by the Director, NGA as sensitive in accordance with Executive Order No. 10450, as amended;

2. Employees granted access to classified information or who may be granted access to classified information pursuant to a determination of trustworthiness by the Director, NGA under Executive Order No. 13292;
 3. Individuals serving under presidential appointments;
 4. Law enforcement officers as defined in 5 U.S.C. 8331(20) and 8401(17); or
 5. Other positions that the Director, NGA determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.
- K. Supervisor** means an employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment. 5 U.S.C. 7103 (a)(10).
- L. Testing Designated Positions (TDPs)** means employment positions within NGA which have been designated for random testing under Section IX(A) of this Plan. All civilian positions at NGA have been designated as TDPs.
- M. Verified Positive Test Result** means a test result that was positive on an initial FDA-approved immunoassay test, confirmed by an analytical procedure approved by the Department of Health and Human Services, and reviewed and verified by the MRO in accordance with this Plan and the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

III. EMPLOYEE ASSISTANCE PROGRAM

A. Function

NGA's Employee Assistance Program (EAP) plays an important role in preventing and resolving employee drug use by: demonstrating NGA's commitment to eliminating illegal drug use; providing employees an opportunity with appropriate assistance to discontinue their drug use; providing educational materials to supervisors and employees on drug use issues; assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities; and follow up with employees during the rehabilitation period to track their progress and encourage successful completion of the program. The EAP, however, shall not be involved in the collection of urine samples or the initial reporting of test results. Specifically, the EAP shall:

1. Provide counseling and assistance to employees, while they remain employees, who self-refer for treatment or whose drug tests have been verified positive, and monitor the employees' progress through treatment and rehabilitation. EAP services will be discontinued once an employee is terminated;
2. Provide needed education and training to all levels of NGA on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the EAP to drug testing, and related treatment, rehabilitation, and confidentiality issues;
3. Ensure that confidentiality of test results and related medical treatment and rehabilitation records is maintained in accordance with Section XIV.

B. Referral and Availability

Any employee found to be using illegal drugs shall be referred to the EAP. The EAP shall be administered separately from the testing program, and shall be available to all employees without regard to a finding of drug use. The EAP shall provide counseling or referral to a rehabilitation facility, as well as education and training regarding illegal drug use. The EAP is available not only to NGA employees, but, when feasible, to the families of employees with drug problems, and to employees with family members who have drug problems.

C. Leave Allowance

Employees shall be allowed up to two hours (or more as necessitated by travel time) of excused absence for each counseling session, for a maximum of eight hours, during the assessment/referral phase of rehabilitation. Absences during duty hours for rehabilitation or treatment must be charted to the appropriate leave category in accordance with law and leave regulations.

D. Records and Confidentiality

All EAP operations shall be confidential in accordance with Section XIV of the Plan relating to records and confidentiality.

E. Structure

The NGA Director of Human Development shall be responsible for oversight and implementation of the NGA EAP, and will provide, with the support of the Director, NGA, high level direction and promotion of the EAP. The NGA EAP consists of an overall program manager located at NGA Headquarters, Bethesda, MD.

Employees are provided educational information regarding drug usage throughout the year. Also, EAP services are offered to employees upon any finding of illegal drug use, including a positive, adulterated or substituted drug test, subject to the limitations of NGA's security and disciplinary policies.

IV. SUPERVISORY TRAINING

A. Objectives

Since supervisors have a key role in establishing and monitoring a drug-free workplace, NGA shall provide training to assist supervisors and managers in recognizing and addressing illegal drug use by agency employees. The purpose of supervisory training is to understand:

1. Agency policies relevant to work performance problems, drug use, and the NGA EAP;
2. The responsibilities of offering EAP services;
3. How employee performance and behavioral changes should be recognized and documented;
4. The roles of the MRO, supervisors, Human Development staff, and EAP personnel;
5. The ways to use the NGA EAP; and
6. How the EAP is linked to the performance appraisal and the disciplinary process.

B. Implementation

The Human Development Directorate shall be responsible for implementing supervisory training, and shall develop a training package to ensure that all employees and supervisors are fully informed of the NGA Drug-Free Workplace Plan.

C. Training Package

Supervisory training shall be required of all supervisors and may be presented as a separate course, or be included as part of an ongoing supervisory training program. Training shall be provided as soon as possible after a person assumes supervisory responsibility. Training courses should include:

1. Overall NGA policy;
2. The prevalence of various employee problems with respect to drugs and alcohol;
3. The EAP approach to handling problems including the supervisor's role and relationship to EAP;
4. How to recognize employees with possible problems;
5. Documentation of employee performance or behavior;
6. Skills in confronting employees with possible problems;
7. Agency procedures for referring employees to EAP;

8. Disciplinary action and removals from sensitive positions as required by Section 5(c) of the Executive Order.
9. Written materials which the supervisor can use at the work site; and
10. The rights of employees.

V. EMPLOYEE EDUCATION

A. Objectives

The EAP shall offer drug education to all NGA employees. Drug education should include education and training to all levels of NGA on:

1. Types and effects of drugs;
2. Symptoms of drug use, and the effects on performance and conduct;
3. The relationship of the EAP to drug testing; and
4. Other relevant treatment, rehabilitation, and confidentiality issues.

B. Means of Education

Drug education activities may include:

1. Distribution of written materials;
2. Videotapes;
3. Lunchtime employee forums;
4. Employee drug awareness days; and
5. Employee classroom or computer-based training.

VI. SPECIAL DUTIES AND RESPONSIBILITIES

A. Drug Program Manager (DPM)

NGA shall have a DPM assigned to carry out the purposes of this Plan. The DPM shall be responsible for implementing, directing, administering, and managing the drug program within the agency. The DPM shall serve as the principal contact with the collection activities, laboratory, and Medical Review Officer. The DPM shall, among other duties:

1. Receive all test results from the MRO;
2. Arrange for all testing authorized under this Plan;
3. Insure that all employees subject to random testing receive individual notice as described in Section VII(B) of this Plan, prior to implementation of the program, and that such employees return a signed acknowledgement of receipt form;
4. Ensure use of Department of Health and Human Services (DHHS) certified laboratories for drug testing;
5. Coordinate with and report to the Director, NGA on DPM activities and findings that may affect the forensic integrity and reliability;
6. In coordination with the Employee Assistance Program Manager (EAPM), publicize and disseminate drug program educational materials, and oversee training and education sessions regarding drug use and rehabilitation; and
7. Coordinate all Drug Program Coordinator duties at the geographic sites wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives.
8. Act as the main contact between NGA and the DoD Drug Reduction Program Manager; update contact information; provide quarterly drug testing statistics; provide information regarding quality assurance issues; and coordinate DoD policy issues.

B. Drug Program Coordinators (DPCs)

DPCs are responsible for the following at their geographic sites:

1. Assuring that employees are scheduled and tested in numbers sufficient to meet NGA's annual testing goal.
2. Assuring all employees have signed a 30-day notice informing them they are subject to random drug testing;
3. Ensuring donors are scheduled in a timely manner;
4. Oversee the collection site to monitor collection activities;

5. Answering questions and responding to donor concerns;
6. Providing report data to the DPM; and
7. Inform all TDPs about the proper collection procedures to be expected at the collection site. Forward all reported quality control discrepancies concerning the collection sites to the DPM.

C. Employee Assistance Program Manager (EAPM)

The EAPM shall:

1. Assume the lead role in the development, implementation, and evaluation of the EAP;
2. Supervise and designate EAP Administrators and Counselors, and assist them establishing EAPs in their geographic area; and
3. Advise on the submission of annual statistical reports, and prepare consolidated reports on NGA's EAP activity.

D. Employee Assistance Program Administrators (EAPAs)

The EAPAs shall:

1. Implement and operate the EAP within the geographic site assigned;
2. Receive notification of a verified positive, substituted, or adulterated test results from the DPM;
3. Provide counseling and referral to treatment services to all employees referred to the EAP by their supervisors or on self-referral, and otherwise offer employees the opportunity for counseling and rehabilitation;
4. Coordinate with the MRO, DPM, and supervisors, as appropriate;
5. Work with the DPM to provide educational materials and training to managers, supervisors, and employees on illegal drugs in the workplace;
6. Assist supervisors with performance and/or personnel problems that may be related to illegal drug use;
7. Monitor the progress of referred individuals, while they remain NGA employees;
8. Ensure that training is provided to assist supervisors in the recognition and documentation of facts and circumstances that support a reasonable suspicion that an employee may be using illegal drugs;

9. Maintain a list of rehabilitation or treatment organizations that provide counseling and rehabilitative programs, and include the following information on each such organization:

- a. Name, address, and phone number;
- b. Types of services provided;
- c. Hours of operation, including emergency hours;
- d. The contact person's name and phone number;
- e. Fee structure, including insurance coverage;
- f. Client specialization; and
- g. Other pertinent information.

10. Periodically visit rehabilitative or treatment organizations to meet administrative and staff members, tour the site, and ascertain the experience, certification and educational level of staff, and the organization's policy concerning progress reports on clients and posttreatment follow-up;

E. Employee Assistance Program Counselors (EAPCs)

The EAPCs shall:

- 1. Serve as the initial point of contact for employees who ask or are referred for counseling;
- 2. Be familiar with all applicable law and regulations, including drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program;
- 3. Meet the qualifications as determined by the EAPA and be trained in counseling employees in the occupational setting, and identifying drug use,
- 4. Document and sign the treatment plan prescribed for all employees referred for treatment, after obtaining the employee's signature on this document; and
- 5. In making referrals, consider the:
 - a. Nature and severity of the problem;
 - b. Location of the treatment;
 - c. Cost of the treatment;
 - d. Intensity of the treatment environment;
 - e. Availability of inpatient/outpatient care;

- f. Other special needs, such as transportation and childcare;
- g. The preferences of the employee.

F. Human Development Consultants

The Human Development Consultants shall:

1. Transmit verified positive test results to the appropriate management official empowered to initiate disciplinary action;
2. Advise managers and supervisors concerning appropriate actions to take, including disciplinary actions; and
3. Refer inquiries concerning drug abuse to EAPCs for appropriate action.

G. Medical Review Officer (MRO)

NGA shall have MRO services available to carry out the purposes of this Plan. The MRO shall, among other duties:

1. Receive all laboratory test results;
2. Assure that an individual who has tested positive, substituted, adulterated, or refusal to test has been afforded an opportunity to discuss the test result in accordance with Section XIII(D) of this Plan;
3. Consistent with confidentiality requirements, refer written determinations regarding all verified positive, substituted, or adulterated test results to the DPM including a positive drug test result form indicating that the positive result has been verified, together with all relevant documentation and a summary of findings; and
4. Coordinate with and report to the DPM on all activities and findings on a regular basis.

H. Supervisors

Supervisors will be trained to recognize the possibility of and address illegal drug use by employees, and will be provided information regarding referral of employees to the EAP, procedures and requirements for drug testing, and behavioral patterns that give rise to a reasonable suspicion that an employee may be using illegal drugs. Except as modified by the Director, NGA to suit specific program responsibilities, first-line supervisors shall:

1. Attend training sessions on illegal drug-use in the workplace;
2. Initiate a drug test based on reasonable suspicion as described in Section X;
3. Direct employees to report for random drug testing when requested to do so by the DPC;

4. Refer employees to the EAP for assistance in obtaining counseling and rehabilitation upon a finding of illegal drug use;
5. Initiate appropriate disciplinary action upon a finding of illegal drug use; and
6. In conjunction with Human Development Consultants, assist higher-level supervisors and the EAPA in determining whether employee performance and or personnel problems are related to illegal drug use.

A higher-level supervisor shall review and concur, in advance, with all tests ordered on the basis of a reasonable suspicion in accordance with Section X.

I. Implementation

At the direction of the NGA Director of Human Development, each organization shall implement the Drug-Free Workplace Plan within their organization, and ensure that the Plan is efficiently and effectively accomplished in accordance with this Plan and all other applicable regulations.

J. General Program/Structural Provisions

The NGA Director of Human Development shall develop implementation procedures to efficiently and swiftly implement all aspects of this Plan, taking into account the unique geographical, personnel, budgetary and other relevant factors of the geographically separated offices. Such procedures will permit implementation to proceed independently and encourage cooperation and coordination among geographically separated offices so as to conserve resources and efficiently implement this Plan.

K. Government Contractors

Wherever existing facilities are inadequate to implement this Plan, the DPM shall:

1. Act as Contracting Officer for the administration of all related contracts;
2. Ensure that contract laboratories chosen to perform the drug screening tests are duly certified pursuant to subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs and that any contracts to implement this Plan conform to the technical specifications of the Mandatory Guidelines; and
3. Establish, by contract or with NGA employees as deemed appropriate, the positions and specific responsibilities of the DPM and the MRO as required by the Mandatory Guidelines.

VII. NOTICE

A. General Notice

A general notice from the Director, DMA, (NGA predecessor organization), announcing the testing program, as required by the Executive Order Section 4(a), was provided to DMA employees on February 14, 1989. The general notice explained:

1. The purpose of the Drug-Free Workplace Plan;
2. That the Plan will include both voluntary and mandatory testing;
3. That those who hold positions selected for random testing will also receive an individual notice prior to commencement of testing indicating that their position has been designated a Testing Designated Position (TDP);
4. The availability and procedures necessary to obtain counseling and rehabilitation through the EAP;
5. The circumstances under which testing may occur;
6. That opportunity will be afforded to submit medical documentation of lawful use of an otherwise illegal drug;
7. That the laboratory assessment is a series of tests which are highly accurate and reliable, and that, as an added safeguard, laboratory results are reviewed by the MRO;
8. That positive test results verified by the MRO may only be disclosed to the employee, the appropriate EAPA, the appropriate management official, and the DPM necessary to process an adverse action against the employee, or a court of law or administrative tribunal in any adverse personnel action;
9. That all medical and rehabilitation records in an EAP will be deemed confidential "patient" records and may not be disclosed without the prior written consent of the patient, an authorizing court order, or otherwise as permitted by Federal law implemented at 42 CFR Part 2.

On 26 Jan 05, NGA employees were notified of changes in NGA Instructions 1010.2 and 1455.1 covering Drug Abuse Testing and Employee Adverse Actions and Discipline, respectively.

B. Individual Notice

In addition to information provided in the general notice, the individual notice (See Appendix A) has been distributed to all employees when they enter on duty since all NGA positions are designated as TDPs. The individual notice explains:

1. That the employee's position has been designated a TDP;

2. That employees who seek assistance voluntarily will be provided the opportunity to use the services of the EAP.
3. That the employee's position will be subject to random testing no sooner than thirty days following receipt of the notice.
4. That, under the NGA Table of Offenses and Penalties, the penalty for a first positive, substituted, or adulterated drug test is removal from NGA.

C. Signed Acknowledgement

Each employee in a TDP shall be asked to acknowledge in writing that the employee has received and read the notice which states that the employee's position has been designated for random drug testing, and that refusal to submit to testing will result in removal. This acknowledgement will be scanned electronically in the Official Personnel Folder. An employee's failure to sign the notice shall not preclude testing that employee, or otherwise affect the implementation of this Plan, since all applicants and transfer employees have been previously notified of the requirement to be drug-free.

VIII. FINDING OF DRUG USE AND DISCIPLINARY CONSEQUENCES

A. Determination

An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to:

1. Direct observation;
2. Evidence obtained from an arrest or criminal conviction;
3. A verified positive, substituted, or adulterated test result; or
4. An employee's voluntary admission.

B. Mandatory Administrative Actions

The NGA supervisor shall refer an employee found to use illegal drugs to the EAP and the employee will be immediately removed from the sensitive position, sensitive work, and from locations where such work is performed.

C. Range of Consequences

Disciplinary action taken against an employee found to use illegal drugs shall be in accordance with NGA Instruction 1455.1, Employee Adverse Action and Discipline, and with NGA's security policies.

The NGA supervisor shall initiate disciplinary action against any employee found to use illegal drugs in consultation with the Human Development Consultant.

D. Initiation of Mandatory Removal From Service

The supervisor shall initiate action to remove an employee, according to the terms of NGA's Table of Offenses and Penalties and its security policies, on the basis of any verified positive, adulterated or substituted test result.

E. Refusal to Take Drug Test When Required

An employee who refuses to be tested when so required will be removed. No applicant who refuses to be tested shall be extended a final offer of employment. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

F. Voluntary Referral

Under NGA's Table of Offenses and Penalties, however, even a voluntary admission of illegal drug use constitutes an offense and a reportable violation of security policies that will result in removal.

While the circumstances of voluntary referrals will be examined on a case by case basis, no 'safe harbor,' no bar to discipline, and no protection from adverse consequence can

be provided because of the extreme sensitivity of NGA positions and the requirements of its disciplinary and security policies.

However, employees who seek assistance voluntarily will be provided the opportunity to use the services of the EAP and to seek and receive treatment while they remain employees with disciplinary and/or other adverse actions in process, consistent with the rehabilitative intent of the Executive Order.

IX. RANDOM TESTING

A. Sensitive Positions Designated for Random Testing

The Executive Order requires random testing for employees in sensitive positions subject to agency criteria. As specified in Section XV of this Plan, the Director, NGA, has determined that all NGA positions are sensitive positions and are TDPs subject to random testing. The criteria and procedures applied in designating such positions for drug testing including the justification for such criteria and procedures are identified in Section XV.

B. Determining the Testing Designated Position

Among the factors NGA has considered in designating TDPs are the extent to which NGA:

1. Considers its mission inconsistent with illegal drug use;
2. Is engaged in law enforcement;
3. Must foster public trust by preserving employee reputation for integrity, honesty and responsibility;
4. Has national security responsibilities;
5. Has drug interdiction responsibilities; or
6. Has positions which -
 - a. Authorize employees to carry firearms;
 - b. Give employees access to sensitive information;
 - c. Authorize employees to engage in law enforcement;
 - d. Require employees, as a condition of employment, to obtain a security clearance;
 - e. Require employees to engage in activities affecting public health or safety.

These positions are characterized by critical safety or security responsibilities as related to the mission of the NGA. The job functions associated with these positions directly and immediately relate to public health and safety, the protection of life and property, law, enforcement, or national security. These positions are identified for random testing because they require the highest degree of trust and confidence. The Director, NGA, reserves the right to add or delete positions determined to be TDPs pursuant to the criteria established in the Executive Order and this Plan. Moreover, the Director has determined, pursuant to 42 U.S.C. 290dd-2, that all positions which have been or will be designated as TDPs under this Plan are “sensitive positions” and are therefore exempted from coverage under 42 U.S.C. 290dd-2.

C. Implementing Random Testing

In implementing the program of random testing, the DPM shall:

1. Ensure that the means of random selection remains confidential; and
2. Evaluate periodically whether the numbers of employees tested and the frequency with which those tests will be administered satisfy NGA's duty to achieve a drug-free work force.

Information about which positions are testing designated positions and the frequency with which random tests will be administered are specified in Section XV.

D. Notification of Selection

The first line supervisor, acting supervisor, or next line of management of the individual selected for random drug testing will be notified the day prior to the scheduled test. The individual selected for random testing shall be notified by the supervisor no earlier than two hours prior to the scheduled test time. The supervisor shall explain to the employee that the employee is under no suspicion of taking drugs and that the employee's name was selected randomly.

E. Deferral of Testing

An employee selected for random drug testing may obtain a deferral of testing if the employee's first-line and higher level supervisors concur that a compelling need necessitates a deferral on the grounds that the employee is:

1. In a leave status (sick, annual, administrative or leave without pay) that was approved prior to notification of testing; or
2. In official travel status away from the test site or is departing on official travel scheduled prior to the testing notification.

An employee whose random drug test is deferred will be subject to an unannounced test within the following 60 days or at the next date of testing.

X. REASONABLE SUSPICION TESTING

A. Grounds

Reasonable suspicion testing may be required of any employee when there is a reasonable suspicion that the employee uses illegal drugs whether on or off duty. Reasonable suspicion testing may be based upon, among other things:

1. Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug;
2. A pattern of abnormal conduct or erratic behavior;
3. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or distribution/trafficking;
4. Information provided either by reliable and credible sources or independently corroborated; or
5. Newly discovered evidence that the employee has tampered with a previous drug test.

Although reasonable suspicion testing does not require certainty, mere "hunches" are not sufficient to meet this standard.

B. Procedures

If an employee is suspected of using illegal drugs, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion. The next level supervisor above the supervisor making the finding that a reasonable suspicion of illegal drug use exists must approve reasonable suspicion testing.

When next level concurrence of a reasonable suspicion determination has been made, the appropriate supervisor will promptly prepare a written report detailing the circumstances that formed the basis to warrant the testing. This report should include the appropriate dates and times of reported drug-related incidents, reliable/credible sources of information, rationale leading to the test, findings of the test, and the action taken. This documentation will be given to the DPM in accordance with Section XIV of this Plan.

C. Obtaining the Sample

The employee may be asked to provide the urine sample under observation in accordance with the criteria in Section XIII(B).

D. Supervisory Training

In accordance with Section IV, supervisors will be trained to address illegal drug use by employees, to recognize facts that give rise to a reasonable suspicion, and to document

facts and circumstances to support a finding of reasonable suspicion. Failure to receive such training, however, shall not invalidate otherwise proper reasonable suspicion testing.

XI. APPLICANT TESTING

A. Objectives

To maintain the high professional standards of the NGA workforce, it is imperative that individuals who use illegal drugs be screened out during the initial employment process before they are placed on the employment rolls of NGA. This procedure will have a positive effect on reducing instances of illegal drug use by employees working within the NGA, and will provide for a safer work environment. For these reasons, drug testing shall be required of all applicants as defined in Section II.

B. Vacancy Announcements

Every vacancy announcement for NGA positions shall state:

"All applicants tentatively selected for this position will be required to submit to urinalysis to screen for illegal drug use prior to appointment."

In addition, each applicant will be notified that appointment to the position will be contingent upon a negative drug test result. Failure of the vacancy announcement to contain this statement notice will not preclude applicant testing if advance written notice is provided applicants in some other manner.

C. Procedures

The DPC shall direct applicants to an appropriate collection facility. The drug test must be undertaken as soon after notification as possible, and no later than 48 hours after notice to the applicant. Waivers to testing after the 48 hours must be approved by the DPM and Recruitment Office, and will only be approved for extenuating circumstances.

Applicants shall be advised of the opportunity to submit medical documentation that may support a legitimate use for a specific drug and that such information will be reviewed only by the MRO to determine whether the individual is licitly using an otherwise illegal drug.

D. Human Development Officials

Upon notification that an individual has been tentatively selected for employment with NGA, the Human Development Office shall ensure, after consultation with the DPM, that a drug test has been conducted on that individual and that the test result was negative.

E. Consequences

NGA will decline to extend a final offer of employment to any applicant with a verified positive test result. NGA shall inform the applicant that a report of a confirmed presence of an illegal drug in the applicant's urine or an adulterated or substituted sample, precludes NGA from hiring the applicant.

XII. ADDITIONAL TYPES OF DRUG TESTING

A. Injury, Illness, Unsafe, or Unhealthful Testing

NGA is committed to providing a safe and secure working environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post-accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, employees may be subject to testing when, based upon the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

1. The accident results in a death or personal injury requiring immediate hospitalization; or
2. The accident results in damage to government or private property estimated to be in excess of \$10,000. If an employee is suspected of having caused or contributed to an accident meeting the above criteria, the appropriate supervisor will present the facts leading to this suspicion to the Department/Office chief for approval. Once approval has been obtained and arrangements made for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing.

B. Voluntary Testing

In order to demonstrate their commitment to NGA's goal of a drug-free workplace and set an example for other Federal employees, employees may volunteer for unannounced testing by notifying the DPM. These employees will then be included in the pool for random testing, and be subject to the same conditions and procedures, including the provisions of Section VIII(F). Volunteers shall remain in the pool until they withdraw from participation by notifying the DPM of such intent at least 48 hours prior to a scheduled test.

C. Follow-up Testing

In the event that NGA's disciplinary and security policies permit the return to work of an employee referred through administrative channels to undergo a counseling or rehabilitation program for illegal drug use through the EAP, the employee will be subject to unannounced testing following the completion of such a program for a period of one year at the amount stipulated in an abeyance contract. Such testing is distinct from testing which may be imposed as a component of the EAP.

XIII. TEST PROCEDURES IN GENERAL

A. Mandatory Guidelines for Federal Workplace Drug Testing

NGA shall adhere to the Mandatory Guidelines for Federal Workplace Drug Testing Programs promulgated by the Department of Health and Human Services consistent with the authority granted by Executive Order 12564, and to the requirements of Section 503 of the Act. The NGA's drug testing component shall have professionally trained collection personnel, quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

B. Privacy Assured

Any individual subject to testing under this Plan, shall be permitted to provide urine specimens in private, and in a rest room stall or similar enclosure so that the employee is not observed while providing the sample. Collection site personnel of the same gender as the individual tested, however, may observe the individual provide the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection site personnel may have reason to believe that a particular individual may alter or substitute the specimen to be provided when –

1. The individual:
 - a. Has previously been found by NGA to be an illegal drug user; or
 - b. Has previously tampered with a sample; or
2. Facts and circumstances suggest that the individual:
 - a. Is an illegal drug user; or
 - b. Is under the influence of drugs at the time of the test; or
 - c. Has equipment or implements capable of tampering or altering urine samples; or
3. The specimen:
 - a. Has a temperature outside the range of 32.5-37.7 degrees C/90.5-99.8 degrees F; or
 - b. Shows signs of contamination.

C. Failure to Appear for Testing

Failure to appear for testing without a deferral will be considered refusal to participate in testing, and will subject the employee to the range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of employment. If an individual fails to appear at the collection site at the assigned time, the collector shall contact the DPM to obtain guidance on action to be taken.

D. Opportunity to Justify a Positive Test Result

When the laboratory has returned a confirmed positive result, the MRO shall perform the duties set forth in the Mandatory Guidelines. For example, the MRO may choose to conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. Evidence to justify a positive result may include, but is not limited to:

1. A valid prescription; or
2. A verification from the individual's physician verifying a valid prescription.

Individuals are not entitled, however, to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner the MRO deems most efficient or necessary. If the MRO determines there is no justification for the positive result, such result will then be considered a verified positive test result. The MRO shall immediately contact the DPM upon obtaining a verified positive test result.

E. Employee Counseling and Assistance

While participating in a counseling or rehabilitation program, and at the request of the EAPC, the employee may be exempted from the random testing pool for a period not to exceed 60 days or the period during which the employee's disciplinary or other action is in process.

F. Savings Clause

To the extent that any of the procedures specified in this section are inconsistent with any of those specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs promulgated by the Department of Health and Human Services, or any subsequent amendment thereto, such Mandatory Guidelines or amendment shall supersede the procedures specified in this section, but only to the extent of the inconsistency.

XIV. RECORDS AND REPORTS

A. Confidentiality of Test Results

The laboratory may disclose confirmed laboratory test results only to the MRO or the staff of the MRO. Any positive result which the MRO justifies by acceptable and appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of an illegal drug will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results will be protected under the provisions of the Privacy Act, 5 U.S.C. 552a, et seq., and Section 503(e) of the Act, and may not be released in violation of either Act. The MRO may maintain only those records necessary for compliance with this Plan. Any records of the MRO, including drug test results, may be released to any management official for purposes of auditing the activities of the MRO, except that the disclosure of the results of any audit may not include personal identifying information on any employee. In order to comply with Section 503(e) of the Act, the results of a drug test of a NGA employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be:

1. To the MRO;
2. To the EAPC/EAPA to which the employee is referred for counseling or treatment or is otherwise participating;
3. To any supervisory or management official within NGA having authority to take adverse personnel/security clearance action against such employee; or
4. Pursuant to the order of a court of competent jurisdiction or where required by the United States Government to defend against any challenge against any adverse personnel action.

For purposes of this Section, "management official" includes any management, government, security, or personnel official whose duties necessitate review of the test results in order to process adverse personnel/security action against the employee. In addition, test results with all identifying information removed shall also be made available to NGA personnel, including the DPM/DPC, for data collection and other activities necessary to comply with Section 503(f) of the Act.

B. Employee Access to Records

Any employee who is the subject of a drug test shall, upon written request, have access to any records relating to:

1. Such employee's drug test; and
2. The results of any relevant certification, review, or revocation-of certification proceedings, as referred to in Section 503(a)(1)(A)(ii)(III) of the Act.

Except as authorized by law, an applicant who is the subject of a drug test, however, shall not be entitled to this information.

C. Confidentiality of Records in General

All drug testing information specifically relating to individuals is confidential and should be treated as such by anyone authorized to review or compile program records. In order to efficiently implement this Plan and to make information readily retrievable, the DPM shall maintain all records relating to reasonable suspicion testing, suspicion of tampering with evidence, and any other authorized documentation necessary to implement this Plan. All records and information of the personnel actions taken on employees with verified positive test results should be forwarded to the Office of Human Development. Such shall remain confidential, locked in a combination safe, with only authorized individuals who have a "need-to-know" having access to them.

D. Employee Assistance Program Records

The EAPC/EAPA shall maintain only those records necessary to comply with this Plan. After a supervisor refers an employee to an EAP, the EAP will maintain all records necessary to carry out its duties. All medical and or rehabilitation records concerning the employee's drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment are confidential and may be disclosed only as authorized by 42 CFR Part 2, including the provision of written consent by the employee. With written consent, the patient may authorize the disclosure of those records to the patient's employer for verification of treatment or for a general evaluation of treatment progress.

E. Maintenance of Records

NGA shall establish or amend a recordkeeping system to maintain the records of the NGA Drug Free Workplace Program consistent with the NGA Privacy Act System of Records and with all applicable Federal laws, rules and regulations regarding confidentiality of records including the Privacy Act (5 U.S.C., Section 552a). If necessary, records may be maintained as required by subsequent administrative or judicial proceedings, or at the discretion of the Director, NGA. The recordkeeping system should capture sufficient documents to meet the operational and statistical needs of this Plan, and include:

1. Notices of verified positive test results referred by the MRO;
2. Written materials justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen;
3. Anonymous statistical reports; and
4. Other documents the DPM, DPC, MRO, EAPA, or EAPC deems necessary for efficient compliance with this Plan.

F. Records Maintained by Government Contractors

Any contractor hired to satisfy any part of this Plan shall comply with the confidentiality requirements of this Plan, and all applicable Federal laws, rules, regulations and guidelines.

G. Statistical Information

The DPM shall collect and compile anonymous statistical data for reporting the number of:

1. Random tests, reasonable suspicion tests, injury, illness, unsafe, or unhealthful practice tests, follow-up tests, or applicant tests administered;
2. Verified positive, substituted, or adulterated test results;
3. Voluntary drug counseling referrals;
4. Involuntary drug counseling referrals;
5. Terminations or denial of employment offers resulting from refusal to submit to testing;
6. Terminations or denial of employment offers resulting from alteration of specimens;
7. Terminations or denial of employment offers resulting from failure to complete a drug abuse counseling program; and
8. Employees who successfully complete EAP.

The MRO will provide statistical data, without names, to the DPM, on the numbers of employees who test positive and negative, upon request of the DPM. This data, along with other pertinent information, shall be compiled for inclusion in NGA's annual report to Congress required by Section 503(f) of the Act.

Upon request, this data shall be provided to the Department of Health and Human Services and DoD Director of Drug Testing and Program Policy to assist in overall program evaluation and to determine whether changes to the Mandatory Guidelines may be required.

XIV. POSITION TITLES DESIGNATED FOR RANDOM TESTING

All NGA positions are TDPs because all require a Top SECRET with SCI-level clearance or above and have access to truly sensitive information.

NGA's position titles and number of incumbents are classified and therefore cannot be provided here.

The random testing rate is 100% annually, as directed by DoD Instruction 1010.9, within designated funding.

APPENDIX A (Revised Mar 2008)

NAME: _____ SSN: _____

DATE: _____

MEMORANDUM OF UNDERSTANDING FOR:

SUBJECT: 30-Day Notice to Employees Subject to Random Drug Testing

1. In accordance with Executive Order 12564, "Drug-Free Federal Workplace," the National Geospatial-Intelligence Agency (NGA) has established a comprehensive program, which provides for drug awareness and education campaigns, drug testing of NGA civilian cadre employees, and Employee Assistance Program services. All NGA positions have been designated as sensitive requiring a minimum TOP SECRET level clearance and therefore are Testing Designated Positions (TDPs). Employees occupying TDPs are subject to random drug testing. Consequently, you will be subject to random drug testing no earlier than 30 days from the date of this memorandum.
2. Employees who are determined to be using illegal drugs or who seek assistance voluntarily will be provided the opportunity to use the services of the Employee Assistance Program (EAP). **Under the NGA Table of Offenses and Penalties, the penalty for a first positive, substituted, adulterated drug test, or a refusal to be tested when notified or failure to appear at the scheduled appointment time, is removal from NGA.** Through the EAP, employees receive counseling and learn about the availability of rehabilitation. Information concerning the EAP may be obtained from your Employee Assistance Program Counselor (EAPC), immediate supervisor or by contacting your organization's HD consultant. To find information regarding how to contact the EAPC's and HD Consultants, please visit the HD website (on the NGA Net) at <http://people.nga.ic.gov/htbin/hd/dbman/people.cgi?db=hd&uid=default> and (on the SBU) at <http://osis.nga.mil/nga-bin/hd/dbman/people.cgi?db=hd&uid=default>. All medical and rehabilitation records of an EAP are deemed confidential patient records and may not be disclosed without the prior written consent of the patient.
3. Drug testing for NGA DoD employees is performed through urinalysis by a laboratory certified by the U.S. Department of Health and Human Services. The testing methodology reflects scientific and technical procedures necessary to ensure highly reliable and accurate results. Procedures for ensuring strict quality control will include an initial screen from drugs and confirmation by gas chromatography/mass spectrometry. To make certain the sample received from an individual is properly identified and not accidentally confused with any other sample, strict procedures are used when collecting and transferring the sample. This documented process is known as the chain of custody. All test results are handled with maximum respect for individual confidentiality, consistent with safety and security. All test results reported by the laboratory are reviewed and verified by a Medical Review Officer (MRO). Employees are given the opportunity to submit information about over-the-counter and

prescription drugs that may adversely affect the drug test results. Use of another person's prescription medicine is not justification for a positive drug test result. Disclosure of a positive test result, verified by the MRO, may only be made to the employee, the Drug Program Manager (DPM), the employee's supervisory chain of command, certain officials of the Human Development Directorate, Site and Personnel Security Offices, and the appropriate EAPC. The appropriate management official needed to process an adverse personnel/security action against the employee will also be notified. If necessary, disclosure may be made to a court of law or an administrative tribunal in any adverse personnel action.

4. If you have any questions about the NGA Drug-Free Workplace Plan, contact your organization's HD Consultant or NGA Drug Program Manager. To find information regarding HD Consultants or the NGA Drug Program Manager, please visit the HD website on either the NGA Net or the SBU at the addresses listed above.
5. All aspects of the NGA drug abuse-testing plan have been designed with the utmost concern for maintaining each individual's privacy and dignity. The NGA decision to implement random testing was made only after intensive review and with careful consideration for the legitimate privacy concerns of affected employees. Achieving a drug-free workplace is a goal we owe to our families, the public, and ourselves.
6. Please sign and date this memorandum in the space provided below. Your signature indicates that you have received and read this notice. **It states that your position has been designated for random drug testing and that under the NGA Table of Offenses and Penalties, the penalty for a first positive, substituted, adulterated drug test, or a refusal to be tested when notified or failure to appear at the scheduled appointment time, is removal from NGA.**

Receipt acknowledged:

Employee Name (print)

Signature

Date

Employee Social Security Number (SSN) *

* Authority to collect SSN: 5 USC, Sections 3301, 4118, 8347, 10 USC, Sections 1601-02; and Executive Orders 9397, 9830 and 12107.

Principal Purpose: This information is needed to ensure the accuracy of filing in the Official Personnel Folder (OPF).